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Dictators in Black Robes

THE NEW COLOR LINE:
HOW QUOTAS AND PRIVILEGE DESTROY DEMOCRACY
Paul Craig Roberts and Lawrence M. Stratton
Regnery Publishing, 1995, vii + 247 pp.

This is a much more radical book than its title suggests. Criticism of quotas and affirmative action is hardly new. As the authors note, opinion polls show a vast majority of the public opposed to these programs; and even among the groups that benefit from them, opinion on their merits is split. A line common among neoconservatives, ever anxious to curry favor among the public, relies on this popular discontent.

These programs, it is alleged, betray the true struggle for civil rights, culminating in the 1964 Civil Rights Act and the 1965 Voting Rights Act. The neoconservatives urge us to drop racial quotas and to return to the legacy of Dr. Martin Luther King. Roberts and Stratton take the argument in a far different and much more illuminating direction.

In a move sure to provoke cries of outrage, our authors oppose the very foundation of modern civil rights law, the decision in the celebrated case (actually a consolidation of several cases) of *Brown v. Board of Education*

A QUARTERLY REVIEW OF BOOKS, BY DAVID GORDON

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(1954). Chief Justice Earl Warren, speaking for a unanimous court, found segregated schools "inherently unequal." As such, they violated the Fourteenth Amendment to the Constitution and were to be eliminated, as an order the next year famously put it, "with all deliberate speed."

How can a sane person of goodwill oppose the Brown decision? Does not doing so brand one as a benighted defender of racial segregation, if not of the reimposition of slavery? Our authors do not argue as advocates of a regime of white dominance: they themselves oppose segregation. Roberts tells us that he "helped to organize civil rights protests as a college student" (p. i); he further claims, "This book is not about racism, segregation, or integration" (p. iv).

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The mystery deepens. If the authors oppose segregation, on what grounds can they reject *Brown*? Their response lies in the nature of the Court's reasoning, with its disastrous implications for the future of the American political system.

As earlier mentioned, Chief Justice Warren found segregated schools at variance with the Fourteenth Amendment. But he did not claim the intent of the framers of that Amendment was to end segregation. Quite the contrary, the Chief Justice stated: "we cannot turn the clock back to 1868 when the [14th] Amendment was adopted, or even to 1896 when *Plessy vs. Ferguson* was written" (p. 44. The *Plessy* decision upheld a Louisiana law that mandated separate seating in railroads: *Brown* partially overturned it). Indeed, to argue that the Fourteenth Amendment, as originally intended, could be bent to the purposes of the Warren Court was a losing enterprise. The very Reconstruction Congress that passed the Amendment established segregated schools in the District of Columbia.

But if the Amendment did not mean what Warren and his fellow justices said it did, then the conclusion is obvious, however much it grates against prevailing sensibilities. The *Brown* decision constitutes a naked act of judicial usurpation. It substitutes a regime of judicial oligarchy for the self-government of the American people. (The authors

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amusingly use the obscure word "kritarchy," to describe rule by judges.)

Even, then, if one approves the goal—the end of segregation—an evil means cannot rightfully be used to attain it. Once we accept the principle that the Supreme Court can establish and overturn law as it wishes, what assurance do we have that the goals at which the Court aims will invariably be to our liking? The authors spend much of the book showing that the busing, quotas, and preferential treatment that have in recent years aroused so much popular fury stem from exactly the principle of judicial oligarchy paramount in *Brown*.

The analysis offered by Roberts and Stratton must confront an objection. They argue that if the Court was not justified by original intent, it has substituted its arbitrary will. But perhaps the justices followed some other standard besides original intent. If so, the answer to the claims of arbitrariness and usurpation may be at hand.

Some other rule, it might be argued, guided the Court; it is this rule, not their naked wills, that the members of the Court endeavored to put into effect. How, then, did the Court attempt to justify its decision? (Parenthetically, even if one could show that the Court followed a reasonable principle in deciding *Brown*, the Court would not be home free. The issue would then arise: what was the Court's constitutional warrant for use of that principle in their decision?)

The authors' response turns the objection in their favor. The rationale of the Court in *Brown* compounds the felony: it itself rests on a premise inconsistent with democracy. Chief Justice Warren based his opinion on studies by psychologists and sociologists that purported to show the harmful effects of school segregation on black children. Further, the harm in question could not be left for Congress and state legislatures to remedy. American society, pervaded by racism, could not by its own efforts end segregation. Judicial guidance was essential.

The Court abandoned the Constitution for the dubious study of a Swedish economist, Gunnar Myrdal, of markedly socialist opinions.

Where did Warren get his strange ideas? The answer lies in a notorious footnote of the decision: "See generally, Myrdal, *An American Dilemma*." The Court abandoned the Constitution for the dubious study of a Swedish economist, Gunnar Myrdal, of markedly socialist opinions.

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Roberts and Stratton have compelled a complete rethinking of the civil rights decisions of the Warren Court and its successors.

Myrdal used his massive work to drum home a deadly message. To reiterate, in his view America was so sunk in racism that its people could not act to end segregation by their own volition. Only a superior caste of judges, guided, of course, by socialist intellectuals such as Myrdal himself, could break the bonds of prejudice.

Roberts and Stratton find Myrdal's argument at odds with a free society. "The basis for the desegregation decision threw out the fundamental presumption of any democratic order—goodwill among citizens regardless of class, race, or gender. Without goodwill there is no basis for uniting different people in democratic self-rule" (p. 5). To claim that people inevitably respond to racial or class interests is to adopt a key principle of Marxism. People, in this view, cannot be swayed by appeals to reason or morality; interest dominates all action.

In combatting this assumption, the authors of course do not adopt the nonsensical view that people's interests never influence their political deliberations. Rather, all that they reject is the claim that these interests operate with iron force, leaving us no room for deliberation and moral suasion.

An episode the authors do not mention supports their claim that Myrdal's work was fatally infected with deterministic assumptions. In a German work written decades before *An American Dilemma*, Myrdal claimed that economists do not objectively pursue truth. Rather, their theories reflect the interests of the economic class to which they belong.

Ludwig von Mises exposed the fallacies in Myrdal's case to devastating effect; as a result, Myrdal dropped the claim in the English translation of his book, without mention of Mises's criticism. (Mises exposes Myrdal's dishonesty in the preface to *Epistemological Problems of Economics*.)

If the authors are right, and they have made a powerful case, a new question demands attention. How did the Court come to adopt so strange a view? Perhaps the greatest contribution of *The New Color Line* lies in the detailed account it provides of *Brown's* genesis.

When the case was first argued before the Court in December, 1952, the tenor of the questions by

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the Justices strongly suggested that the Court was *not* about to overturn separate schools. John W. Davis, widely regarded as the greatest twentieth-century member of the Supreme Court Bar, easily bested Thurgood Marshall, the lead counsel for the plaintiffs, in argument. Further Fred M. Vinson, then the Chief Justice, regarded the issue of segregation as one best left to the legislative branch.

In 1952, the Court seemed inclined to uphold *Plessy;* the decision, when issued in 1954, unanimously condemned segregation. What happened? Our authors locate the answer in the machinations of Justice Felix Frankfurter, a Roosevelt appointee to the Court who fancied himself a great judicial statesman. Frankfurter strongly desired a verdict for the plaintiffs but recognized the weakness of Marshall's case.

What was to be done? Frankfurter persuaded his colleagues to order the case reargued, thus averting an unfavorable outcome. The Justice Department was invited to submit a new brief. By odd coincidence, the attorney in charge of civil rights cases for the Justice Department was Philip Elman, a former law clerk of Frankfurter's. Elman had the task of preparing the new brief; and he did so in close consultation with Frankfurter. In gross violation of judicial ethics, a sitting justice thus assumed the role of advocate. Frankfurter, a friend of Myrdal, strongly advised reliance on the work of this Swedish socialist; and Elman proved an apt student.

Roberts and Stratton tell the story in great detail and with a high sense of drama. I do not think it quite enough, though, to say that Frankfurter's clerk, Alexander M. Bickel, "argued that the language used by the Constitution's framers was so elastic that the Court could reinterpret it according to the needs of the times" (p. 40). This is not wrong, but it leaves out Bickel's claim that the language of the Fourteenth Amendment was designed by its framers to be open for future construal.

Further, to say that "[s]egregation was supported by more than a half century of precedent" (p. 44) goes too far. Several cases, decided before *Brown*, had already weakened *Plessy*. But on the whole the discussion of the intrigue that led to the *Brown* decision is first-rate. How ironic that in some circles Frankfurter retains his inflated reputation as a supporter of judicial restraint.

I have concentrated on the book's discussion of *Brown*, since this seems to me by far the work's most vital contribution. But it includes much else of interest, including a spirited argument against quotas. The authors contrast the classical liberal principle of equal treatment of all before the law with

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the creation of legally privileged castes. To guarantee jobs, promotions, and contracts to some groups, while excluding others, is to return to feudalism.

Relying on the work of the great French medievalist Marc Bloch, the authors argue that "[h]istory's compelling lesson is that privileges once granted are not easily rescinded" (p. 129). This ingenious parallel brings to mind a similar display of ingenuity in a notable early essay on the Pirenne thesis by the book's senior author. But this is by the way.

By their sharp challenge to conventional opinion, Roberts and Stratton have compelled a complete rethinking of the civil rights decisions of the Warren Court and its successors. ❖

Communism for Kids

IT TAKES A VILLAGE:
AND OTHER LESSONS
CHILDREN TEACH US
Hillary Rodham Clinton
Simon & Schuster, 1996, 319 pgs.

Hillary Clinton is, to say the least, a controversial person; but a reader who had never heard of her before taking up this volume might never suspect it. She appears here in the tones of sweet reason, doling out, in roughly equal doses, banal advice about children and stories, meant to be charming, about her family.

To read her remarks while knowing something of the background of the First Couple is a strange experience. She tells us, with becoming modesty, "I have spent much of the past twenty-five years working to improve the lives of children" (p. 7). No doubt she invested in cattle futures in the hope that a windfall would enable her to help many more children than before. When she says, "My strong feelings about divorce and its effects on children have caused me to bite my tongue more than a few times during my own marriage and I think instead about what I could do to be a better wife and partner," one cannot but wonder what she had to stop herself from saying. I suspect that Gennifer Flowers and other women of easy virtue frequently drove her to mutter, but it would have been good to hear the stories straight from the horse's mouth.

Hillary, though, is not really someone to be dismissed with laughter. She wields immense power; and, as this book makes clear, she has a chilling agenda in store for our children. However hard she tries, she cannot disguise her totalitarian urges.

The key to Hillary's thought, such as it is, appears in the chapter

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"The Bell Curve Is a Curve Ball." The fundamental failing of parents, we learn, is to believe that children are born good or bad. "One father who brought in his badly injured three-year-old [to the emergency room] claimed that he had beaten the boy to 'get the devil out of him.' Behind his horrifying actions lurked the belief that babies are born either good or bad. If their fundamental nature is 'bad,' as evidenced by behavior like persistent crying, this crazy logic goes, they must be punished, beaten if necessary" (p. 53).

Women have been left to bear children as they wish. Such foolishness cannot be allowed. Experts to their battle stations!

The First Matron's construal of the story is difficult to fathom. If the father had thought the boy so fixed in badness that he could not be changed, why would he have done anything to him at all? The story can just as well be taken instead to show that it is dangerous to believe that children's behavior can be influenced by their parents: look what horror ensued when a man tried to give effect to his environmentalist creed.

But of course Hillary is not here engaging in rational argument. She wishes rather to implant a picture in the reader's mind. Parents, left to themselves, are dangerous to children; they must be suitably guided by experts. "Recent discussions in neuroscience, molecular biology, and psychology have given researchers a whole new understanding of when and how the human brain develops. Their findings are a crucial kind of coaching that can show parents and other caregivers how to elicit a child's full potential" (p. 52).

As the First Lady sees matters, human beings in their first few years are indefinitely malleable. Through proper cultivation techniques, their "potential" can be fully developed, of course under the direction of the state. "If we as a village decide not to help families develop their children's brains. . . . let us acknowledge that we are not using all the tools at our disposal to better the lives of our children" (p. 61).

So anxious is she to induce belief in her dogma of mental plasticity that she does not hesitate to distort the research of those who arrive at other views. "It has become fashionable in some quarters to assert that intelligence is fixed at birth, part of our genetic makeup that is invulnerable to change, a

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claim promoted by Charles Murray and the late Richard Herrnstein in their 1994 book, *The Bell Curve*. . . . But research provides us with plenty of evidence that this perspective is not only unscientific but insidious" (p. 59). Of course, these authors do not make the blatantly false claim that intelligence is invulnerable to change. But research provides us with plenty of evidence that Hillary is an unscrupulous propagandist.

If you do not have children, you should not feel left out; Hillary has plans for you, too.

Ideally, in her view children in their first three years will have the benefit of expert direction, so their brains can be grown in hothouse fashion. But what happens once children reach the age of three? Their brains have now, one presumes, received the full benefits of efficient cultivation. May these brains, and the bodies that encase them, now be returned to their parents?

I fear that Hillary has rather more in mind for her young charges: "Imagine a country in which nearly all children between the ages of three and five attend preschool. . . . Imagine a country that conceives of child care as a program to 'welcome' children into the larger community and 'awaken' their potential for learning and growing" (p. 220). Large schools, with "sparkling classrooms" are of course the order of the day. She warns against family day care: standards cannot be readily supervised, and care not under the supervision of Big Sister may be unscientific.

But we have hitherto underestimated the scope of Hillary's plans for us. So far, the child from birth to age five has been brought into line. But a space for freedom has been overlooked. Women have been left to bear children as they wish. Such foolishness cannot be allowed. Experts to their battle stations!

Hillary, ever alert to the menace of spontaneity, does not disappoint us. The state must follow an active policy of family planning: "It is tragic that our country does not do more to promote research into family planning and wider access to contraceptive methods because of the highly charged politics of abortion" (pp. 72–73). That some might think this an improper area for state meddling does not trouble Hillary. Roman Catholics and others who have questions of conscience about contraception are unworthy of mention: science, in the person of its avatar, has spoken.

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A minor obstacle, called parents, threatens to block Hillary's road to Shangri-La. She knows how to deal with this enemy: "We could be willing to terminate parental rights more quickly whenever physical or sexual abuse [of course as defined by her and her minions] is involved. . . . We could make decisions by birth parents to give up children for adoption more difficult to overturn" (p. 49).

The use of claims of abuse to place children in the hands of experts is dear to the heart of our author. "If the police decide to proceed with charges against *any adult in a child's home*, even as an accessory to a crime, child protective workers should assist in deciding whether the child should stay in the home or be moved to safer ground. And social workers and courts should make decisions about terminating parental rights of abusive parents more quickly" (pp. 173–74; emphasis added). No one of course thinks children should be abused; but Hillary's avidity to seize children from their natural parents makes one's blood run cold.

At times, Hillary poses as the champion of family values, but her crude charade will fool no one. Thus, she deplores the frequency of divorce, rightly noting that children often suffer when a family breaks up. But what has she to offer in solution? "Some courts now require that divorcing parents attend classes and learn about the potential effects of divorce on their children. They are given training" (p. 45). Once more the state's experts must instruct the canaille in the habits their betters think suitable for them.

If you do not have children, you should not feel left out; Hillary has plans for you, too. Her schemes to bring children under state tutelage require that much of the economy be regulated as well. Businesses ought to offer *paid* leave to new fathers (as well as maternity leave, of course) so that both parents can receive adequate training for their new jobs as Child Managers, Grade I.

Whether employees wish to receive part of their wages in the form of these benefits of course does not matter to her. She deplores the reluctance of insurance companies to sell policies to families with children who suffer from diseases such as cystic fibrosis. The fact that these companies are profit-making enterprises, not associations for universal benevolence, matters not a whit. They too have their appointed place in the New Order.

I hope, but do not much expect, that Hillary Clinton will interrupt her immense labors for the welfare of children to answer this: "who made you a ruler and judge over us?" (*Exod.* 2:14). ❖

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Hail to the Congress

WAR AND RESPONSIBILITY: CONSTITUTIONAL LESSONS OF VIETNAM AND ITS AFTERMATH
John Hart Ely
Princeton University Press, x + 244 pp.

As I write these lines, an American soldier, no doubt the first of many to come, has been killed while taking part in the American "peacekeeping" mission in Bosnia. Many in Congress, including most of the Republican candidates for President, oppose sending our troops to "a far away country of which we know nothing." Opinion polls unanimously declare that the American people do not want to go to war in Bosnia.

But in foreign affairs, the rule nowadays seems to be, "Congress (and the American people) propose; the President decides." President Clinton has committed our troops to Bosnia; and patriotic duty, it is alleged, demands that we support the Commander-in-Chief.

War and Responsibility appeared long before President Clinton's costly effort to make Bosnia safe for democracy, but it has never been more relevant. John Hart Ely's brilliant book establishes incontrovertibly that it is Congress, not the President, who has under the Constitution the sole power to involve U.S. forces in war.

Many areas of constitutional law generate issues of Byzantine complexity, but this one does not. "The power to declare war was constitutionally vested in Congress. The debates, and early practice, establish that this meant that all wars, big or small, 'declared' in so many words or not—most weren't, even then—had to be legislatively authorized. Indeed, only one delegate to either the Philadelphia [Constitutional] convention or any of the state ratifying conventions, Pierce Butler, is recorded as suggesting that authority to start a war be vested in the president" (p. 3, notes omitted). Butler's view was at once repudiated.

For most of our history, presidents scrupulously obeyed the command of the Constitution. "And when certain presidents did play a little fast and loose with congressional prerogatives—Polk at the start of the Mexican War; Wilson and Roosevelt, respectively, in the events leading up to the First and Second World Wars—they obscured or covered up the actual facts, pledging public fealty to the constitutional need for congressional authorization of military action" (p. 10, note omitted).

Ely does not include Lincoln's actions at the start of the Civil War

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in his list of exceptions, since "for constitutional purposes a domestic rebellion is quite different from a foreign war" (p. 150). Though I think this a mistaken view, this is not the place to argue the point; and even if Lincoln is added to the list of violators, Ely's main contention stands.

The framers of the Constitution wished to make wars difficult to start.

But if most presidents on this issue obeyed the constitution, how did we get where we are today? The key figure in the transition is that much-overrated haberdasher, Harry Truman. During the Korean "police action," Truman went out of his way not to seek Congressional approval for his actions. His supporters claimed that as Commander-in-Chief it was within his power to start wars without congressional approval. Ely, not one to mince words, calls this an "outrageous rationale" (p. 152).

Since Truman, the presidential record has been a sorry one. With the exception of Dwight Eisenhower, presidents have continued the path of usurpation pioneered by the man who gave us Hiroshima. But the blame for the violation of the Constitution does not lie solely with our recent presidents. Congress has colluded with them: as Ely sees matters, Congress prefers that the president assume the burden of committing our troops to battle. If a war turns out badly, he, not Congress, will be blamed; if it turns out well, Congress can bask in the president's reflected glory. In addition, individual members of Congress aim primarily to serve the interests of their constituents: they have little to gain by voting to send troops into combat. Presidential usurpation of the war power suits many Congressmen quite well.

Should we go along with the new order of things? Ely thinks not. The original understanding of the war powers clause makes eminent good sense. The framers of the Constitution wished to make wars difficult to start. It is easier for a single person to plunge the country into war, should the decision rest with him alone, than for a group continually sensitive to popular approval to do so.

At one juncture Ely could strengthen his case. He states: "Of course, if he asked, the president would usually receive rather readily the support of both Congress and the American people when he decided to have a war. . . . [But] the constitutional strategy

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was to require more than one set of keys to open the Pandora's box of war" (p. 9). Ely's argument, then, is that having Congress declare war will slightly reduce the probability of war. The chances of war will be reduced, since both Congress and the president must agree, if a war is to occur; but they will be reduced only slightly, since Congress will probably grant the president's request for a declaration.

Ely suggests that presidents who violated the war powers clause should have been impeached. I hope that readers will not fail to apply the point to the current occupant of the White House.

The last step of the argument does not follow from Ely's premises. Ely I think has reasoned as follows: the president wants a certain number of wars. If the decision is solely up to him, we will have just that number. But Congress, though it will usually go along with him, will on occasion not do so. Therefore, the number of wars with Congressional approval will be slightly less than without it. This argument wrongly assumes that the requests submitted to Congress will consist of the wars the president would have started on his own, had he the power to do so. But this might be false. Perhaps the president, knowing a request will not be approved, will decline to submit it. More simply put, if the president realizes his requests may be turned down, he will be apt to ask for fewer wars than he would have started on his own.

I hope that readers will forgive me for going on too long about this point. Ely is a dialectician of immense subtlety, and the temptation to try to catch him out proved too difficult to resist. Besides, the point materially strengthens his case.

Defenders of the present order will no doubt dismiss the appeal to Congress as an anachronism. Do not the imperatives of modern war demand swift and sudden action? How can one insist on a leisurely appeal to Congress, when the fate of the world may require instant response?

As usual, Ely has anticipated the objection: "Occasionally—though nowhere near as often as enthusiasts would have us believe—military emergencies can develop faster than Congress can convene and react. This was also true in the

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late eighteenth century—it was probably truer than it is today. . . . The founders understood this, though, and consequently reserved to the president authority to respond on his own to 'sudden attacks' until there was time for Congress to convene and confer. In such situations the president could respond militarily and seek authorization simultaneously" (p. 6, note omitted).

If Ely is right, a difficult problem confronts us. The war powers clause should be obeyed as originally meant; but Congress prefers the present situation. What is to be done?

Ely rests his hopes on the federal judiciary. If the president has committed us to war without the approval of Congress, the courts should declare the executive action unconstitutional and remand the matter to Congress for its decision. I am inclined to think that Ely vastly overestimates the interest of the federal courts in constitutional government; but here readers must judge for themselves.

In one instance, Ely's zeal to bring in the courts leads him to a rare misstep. Supporting the plaintiffs in *Dellums v. Bush*, a suit brought by several members of Congress to enjoin President Bush from sending troops to Kuwait without the consent of Congress, Ely writes: "it was a suit that said 'The president's unilateral actions . . . [are] depriving the fifty-four of us of a right the Constitution guarantees us, that of voting on wars before the president starts them'" (p. 60). If Congress alone has the right to declare war, then should the president begin a war without consent of Congress, he has violated *its* right. But it does not follow that groups of members within Congress have separate rights that have been violated. At any rate, this is an independent step for which argument is needed. But this is a minor matter.

I fear that I have given a skewed account of Ely's book. Much of it is concerned to analyze, in painstaking detail, whether the American involvement in Indochina was constitutional. I have emphasized the underlying thesis, rather than Ely's historical application, since the issue he raises is of vital current interest. He suggests during his historical account that presidents who violated the war powers clause should have been impeached. I hope that readers will not fail to apply the point to the current occupant of the White House. ❖

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The Merchants of Death

WALL STREET, BANKS, AND AMERICAN FOREIGN POLICY
Murray N. Rothbard
Rothbard–Rockwell Report, 1995, vii + 100 pp.

Defenders of the free market are often stigmatized as uncritical apologists for big business. Nothing could be further from the truth, as readers of this book will at once discover. Written by one of the two greatest twentieth century champions of free-market capitalism, Murray Rothbard, it is nevertheless a searing indictment of the influence of investment bankers on twentieth-century American foreign policy.

But "nevertheless" is the wrong word. Rothbard's criticism of certain big business interests directly follows from his free-market position. Like Franz Oppenheimer and Albert Jay Nock, Rothbard distinguished two means by which people can attain their ends. One of these, voluntary exchange, constitutes the basis of the free society to which he devoted his life. The other, the "political means" is inimical to freedom. For Rothbard, in an even more unqualified way than for St. Augustine, the state is "a great robbery." Its guiding principle is coercion, and its revenues are plunder extracted from producers.

Business interests who ally with the state, then, find no favor with our author. He maintains that investment bankers are especially liable to form alliances of this sort; hence their activities must be viewed with the greatest suspicion. "*Investment* bankers do much of their business underwriting government bonds, in the United States and abroad. Therefore, they have a vested interest in promoting deficits and in forcing taxpayers to redeem government debt. Both sets of bankers [i.e., commercial and investment], then, tend to be tied in with government policy, and try to influence and control government action in domestic and foreign affairs" (p. 1).

For Rothbard this view was no mere abstract speculation; it was the linchpin of much of his historical research. And his adoption of this theory makes his history all the more fascinating to read. Economic history too often is disguised sociology: forces such as Business, Labor, and Government confront one another in an "unearthly ballet of bloodless categories."

There is none of this in Rothbard. For him history is a matter of who did what to whom. As Justin Raimondo points out in the

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book's insightful "Afterword," Rothbard's search for the individual actor is a direct consequence of methodological individualism, a key tenet of the Austrian school.

In the present book, Rothbard applies his historical method with illuminating results. Though relatively short, it is, as my great teacher Walter Starkie used to say, "packed with matter"; and I have space here to indicate only a few of the many episodes Rothbard explores.

Theodore Roosevelt, Walter Lippmann, John F. Kennedy, Henry Kissinger—all of these, and many others, come under Rothbard's scrutiny.

Near the start of the work, Rothbard advances a striking thesis: "The great turning point of American foreign policy came in the early 1890s, during the second Cleveland Administration. It was then that the U.S. turned sharply and permanently from a foreign policy of peace and non-intervention to an aggressive program of economic and political expansion abroad" (p. 4). The turn came at the behest of the House of Morgan, which in Rothbard's view exerted a controlling influence on American foreign policy until the onset of the New Deal.

Under the new activist policy, the United States vigorously sought to wrest control of the Latin American market from Great Britain. In spite of the later close partnership between the Morgan interests and Britain, the United States was very far indeed from alliance with Britain during most of the 1890s.

Rothbard seems to me entirely on the mark here; few historians have grasped this simple but essential truth. In further support of Rothbard's analysis, Britain strongly backed Spain during the Spanish–American War of 1898.

But a British–American partnership was not long in coming, and Rothbard finds in the close ties between the House of Morgan and British financial interests an underlying cause of American entry into World War I. Because of Morgan investments in allied war bonds and in the export of war munitions, "J.P. Morgan and his associates did everything they possibly could to push the supposedly neutral United States into the war on the side of England and France" (p. 16).

Rothbard is by no means finished with the House of Morgan.

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During the 1920s, Morgan interests controlled the Federal Reserve System. Here the key figure was Benjamin Strong, "who singlehandedly dominated Fed policy from its inception until his death in 1928" (p. 23). Strong "spent virtually his entire business and personal life in the circle of top associates of J. P. Morgan" (p. 23); and as Governor of the New York Federal Reserve Bank, then the most powerful position in the Federal Reserve system, he was ever alert to the interests of his Morgan allies.

I fear that I have so far given a misleading impression of the book. It is much more than a study of the Morgans. Indeed, in the 1930s the Morgans ceased to occupy the top position in the financial elite and were replaced by the Rockefellers. But, so filled with detail is the book that a review can really do no more than single out a few topics for mention.

The reader has much more in store for him. Rothbard again and again turns up a new angle on some person or event. Theodore Roosevelt, Walter Lippmann, John F. Kennedy, Henry Kissinger—all of these, and many others, come under Rothbard's scrutiny, as he illustrates his thesis about the influence of investment bankers. The book defies summary: twentieth-century American diplomatic history will never be the same. ❖

A Strange Brew

INDIVIDUALS, INSTITUTIONS, INTERPRETATIONS: HERMENEUTICS APPLIED TO ECONOMICS
Edited by David L. Prychitko
Avebury, 1995, xi + 175 pp.

This book gets off to a bad start. The editor, David L. Prychitko, ardently supports a particular sort of interpretation theory, hermeneutics, particularly as developed by Hans-Georg Gadamer and Paul Ricoeur. Use of this theory, Prychitko thinks, can greatly contribute to the development of Austrian economics, a thesis he and his collaborators endeavor to defend in the body of the book.

The work is divided into three parts. Part One contains essays on methodological individualism, a key principle of Austrian economics. "Part Two explores the methodological problems of interpreting individual action and the way people's plans are integrated into the socio-institutional order. . . . Part Three applies interpretive economics to the nature of the market order" (pp. 4–5).

Readers of *The Mises Review* may recall that I do not completely share the editor's enthusiasm for his beloved new interpretation

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theory. But it is not because he advocates hermeneutics that I said his book gets off to a bad start (though this helped). Rather, the problem lies in the quite extraordinary way Prychitko goes beyond the evidence in several of his comments.

Mises goes out of his way to stress the ignorance of philosophers about economics.

He states: "Mises established a phenomenological basis for Austrian economics as early as the 1920s, which was carefully addressed in his 1933 collection of essays, *Epistemological Problems of Economics,* and further deployed in his 1949 *magnum opus*, *Human Action: A Treatise on Economics*" (pp. 2–3).

As Herbert Hoover would say, let's cite a powerful statistic. Prychitko has mentioned two major works by Mises. The total number of references in these two books to Edmund Husserl, the founder and principal developer of phenomenology, is *one*. Alfred Schutz, Mises's student and a pioneer in the use of phenomenology in the social sciences, is cited twice in *Human Action*, once for the same point as Husserl.

I do not suggest that there are no interesting parallels between Austrian economics and phenomenology. Mises's use of the phrase "method of free variation," also employed by Husserl, certainly merits investigation in this context, as do many other topics. But what concerns me is *not* the issue of Mises and phenomenology. It is, rather, the irresponsibility with which Prychitko asserts his claim in the absence of textual evidence.

Again, Prychitko remarks: "Mises drew support from heavyweight interpretive philosophers, such as Henri Bergson, R.G. Collingwood, Benedetto Croce, Wilhelm Dilthey, and Edmund Husserl" (p. 3). Let us now look at Mises: "With regard to praxeology the errors of the philosophers are due to their complete ignorance of economics." Mises here appends a footnote, which states: "Hardly any philosopher had a more universal familiarity with various branches of contemporary knowledge than Bergson. Yet a casual remark in his last great book clearly proves that Bergson was completely ignorant of the fundamental theorem of the modern theory of value and exchange" (*Human Action*, New Haven, 1963, pp. 32–33).

Once more, I do not regard this citation as settling the question of

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influence. But when Mises goes out of his way to stress the ignorance of philosophers about economics, it is the height of ignorant fatuity to treat it as uncontroversial that Mises was influenced by them when he worked out his views on the foundations of that discipline.

Fortunately, much of the book is better than its introduction. The first section, on methodological individualism, is well worth reading. Peter Boettke convincingly shows that Geoffrey Hodgson has a misleading, "atomistic," view of Austrian method. Austrian economists do not assume that individuals have fixed preferences, immune to mutual influence. On the contrary, the Austrian approach stresses intersubjectivity, a point Prychitko also ably deploys against Steven Lukes and Michael Simon. "If our goal as social scientists is to understand human action, then individual consciousness must be given primacy. And perhaps the best defense is that it works" (p. 13).

But at one point the papers in this section seem to me seriously incomplete. Boettke and Prychitko, and Gary Madison as well in his interesting paper on Hayek, rightly stress intersubjectivity in their accounts of the Austrian position. Yet at least the former two authors seem to assume that this point suffices to refute the claim of methodological collectivists, or holists, that at least some social facts cannot be fully accounted for by reference to individual action. Boettke's and Prychitko's essays suffer from an insufficient diet of examples. Philosophers such as Alan Garfinkel and Maurice Mandelbaum have advanced much more sophisticated defenses of holism than the crude fallacies our authors unmask. I venture to suggest that they would find, in particular, Margaret Gilbert's *On Social Facts* a much tougher nut to crack.

In earlier reviews, I have from time to time had a few mild words of rebuke for Don Lavoie. His essay in the present collection, "The Market as a Procedure for the Discovery and Conveyance of Inarticulate Knowledge" strikes me as much better than his essays in the *Elgar Companion* and *The Market Process*. His argument fails, but at least he does not fall flat on his face.

Perhaps the key to his relative success lies in the fact that much of his essay deals with economics, a subject which, in contrast to philosophy, he knows something about. In his essay, Lavoie considers an attempt by several market socialist economists to circumvent the Mises–Hayek socialist calculation argument. In response to the claim that a Central Planning Board cannot gather the relevant information needed to guide a complex economy, Leonid Hurwicz and others "have designed procedures that assume that the knowledge available to each

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participant is strictly localized" (p. 121).

In these schemes, plant managers tell the Central Planning Board how much they would produce, and with what techniques, at various prices. The CPB, using complex mathematical techniques, can use the information it obtains from the firms to generate a set of efficient prices.

Lavoie assumed one controversial premise without support. Prychitko asks us to accept an entire philosophical system on faith.

I found Lavoie's description of the market-socialist models clear and informative. But once again resort to philosophy spoils what could have been an excellent paper. In response to the models just described, Lavoie appeals to tacit or inarticulate knowledge. People often possess knowledge they cannot state in words: they know how to drive a car, or for that matter how to walk, without being in any way able to state the complicated rules their actions follow.

Lavoie uses tacit knowledge to respond to the market socialists in this way: "The plant manager must be able to say which production technique, including specific quantities of all the inputs needed, he will use for any of the configuration of tentative prices suggested to him at each iteration of the dialogue. I do not believe a plant manager can do this" (p. 123).

Unfortunately, Lavoie offers no reason for this claim. Market socialists will hardly be inclined to accept his view of the abilities of plant managers on his mere say so. Surely Lavoie would ordinarily have noticed so obvious a hole in his argument. What I suggest has happened is that he has been so fascinated by his pet philosophical idea, learned from Michael Polanyi and Hayek, that he thinks merely to invoke it suffices to make good his argument. Just say "tacit knowledge" three times, as fast as you can, and you may bid socialism good-bye.

Whatever its failings, Professor Lavoie's essay is a veritable masterwork when compared with "Ludwig Lachmann and the Interpretive Turn in Economics: A Critical Inquiry into the Hermeneutics of the Plan," by our old friend David Prychitko. This essay, the last in the book I shall consider, is a model of how not to carry on a philosophical argument.

Prychitko praises Ludwig Lachmann as a pioneer in the application of hermeneutics to economics. "Because economics is (or should be) a science that seeks to

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render the social world intelligible by reference to plan-guided actions, Lachmann claims that economics is in a unique, perhaps even envious [sic] position, compared to the natural sciences" (p. 95). In attempting to understand individual plans, the economist should act like a scholar interpreting a text. Just as a reader attempts to discern what an author meant to say, so must the social scientist attempt to understand human actions by discerning the plans that underlie them.

Say "tacit knowledge" three times, as fast as you can, and you may bid socialism good-bye.

Though appreciative of Lachmann's efforts, Prychitko finds them lacking. Lachmann found it difficult to account for the unintended consequences of action. How could he deal with the unplanned results of action, when his method of interpretation confined him to actors' mental plans?

Lachmann's error stems from his resort to an outdated hermeneutics. In contrast to the classical hermeneutics of Dilthey, on which Lachmann relied, "the phenomenological hermeneutics of Hans-Georg Gadamer and Paul Ricoeur argues that . . . meaning does not reside in the original intention of the author or actor. Meaning, for them, is a mutual relationship between scholars and the historical actor under observation" (p. 99). Since the new theory does not equate meaning with original intention, it is much better equipped to handle unintended consequences. Here lies salvation for the Austrian school.

Whether Gadamer's account of interpretation is correct is a matter I cannot now discuss. In my view it is not, but this is neither here nor there. Rather, the difficulty for Prychitko is that he has failed completely to give any reason why Gadamer's position ought to be accepted as an account of textual interpretation. Lavoie assumed one controversial premise without support. Prychitko asks us to accept an entire philosophical system on faith.

Though I cannot realistically hope that so eminent a scholar would take account of my remarks, I nevertheless wish he would somewhere address this point: So what if Gadamer says a, b, and c. Why is this a reason for anyone *else* to adopt a, b, and c? Prychitko seems utterly lacking any conception of what a philosophical argument consists of: he thinks a brief report of someone's views suffices to make a case for them. It does not. ❖

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Living Well

PUBLIC POLICY AND THE QUALITY OF LIFE: MARKET INCENTIVES VERSUS GOVERNMENT PLANNING
Randall G. Holcombe
Greenwood Press, 1995, 190 pp.

Randall Holcombe identifies a paradoxical feature of much public argument about economic issues. Socialism has collapsed. The Workers' Paradise is no more, and even professed socialists rush to proclaim their allegiance to the market. (A socialist market, they say, will work better than a capitalist one.)

Only a market economy, then, can produce goods and services efficiently, conventional wisdom admits—except in one area. The "quality of life," and its associated problems, has in recent years assumed center stage. Questions of the environment, land use planning, public health, regulation of drugs, etc., cannot be escaped. These "aspects of the quality of life must be created collectively" (p. 8).

What is to be done about this sort of problem? Given the failure of socialism, one might expect a headlong rush to place all in the market's hands. Why not try what succeeds, rather than seek solace in futile schemes of governmental planning everywhere in ruins?

But the expected has not happened, and here lies the paradox to which Holcombe calls attention. Increasingly, the call is heard for more government. The market, it is alleged, cannot cope with collective goods of this sort; bring on the state!

As Holcombe notes, to call in the government, though socialism has collapsed, by itself generates no contradiction. Just because less government would have been desirable in socialist countries, it does not follow that more government would be undesirable in market-oriented economies. Nevertheless, why not use what has worked, rather than what has not?

Holcombe makes clear the powerful considerations that militate against the success of political solutions to quality of life problems. Government employees do not face the exacting test of profit and loss; instead, success in government often consists in expanding the budget of one's agency. Further, once ensconced in a job, a bureaucrat is difficult to oust. He is free to go about his business in sovereign indifference to the consumer.

And if the government hireling does deign to notice anything outside his office, it is unlikely to be the public. Meanwhile, the public has little incentive to monitor closely the regulation of, say, trucking or electrical power. By contrast, special-interest groups usually have a great deal at stake when an agency directly affects

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In the work of contemporary moral philosophers such as Rawls and Nagel, "future generations" operates as a never-failing means to berate the market.

them. Regulatory agencies thus often end up as impediments to the public interest.

And suppose the government somehow did attempt to serve the public, however unlikely that is. Our difficulties would not be over. What does the public want? Every important issue involves constant conflict as persons with diverse goals press for advantage. Absent clear property title for resources in dispute, no decision is ever final. The dissatisfied constantly aim to upset the *status quo*, and confusion reigns.

Professor Holcombe makes an overwhelming case that the state cannot be relied upon to improve the quality of life. But can the free market do better? Under a market system with clearly delineated property titles, owners of resources will tend to use them in a way likely to bring joy to the hearts of those wishing a better quality of life.

Holcombe makes his case theoretically and applies it to a number of key areas, including the environment, growth management and land use, housing and homelessness, health care, and the drug problem. Again and again, he makes illuminating remarks that reflect extensive scholarship and careful thought.

In the work of contemporary moral philosophers such as Rawls and Nagel, "future generations" operates as a never-failing means to berate the market. Holcombe clears up the confusion about the market's alleged inability to consider the interests of the unborn with a simple statement. "When markets for valuable resources exist, people do not need to consume the resources they own to benefit from them. If they preserve the value of the resources, they can sell them, so there is an incentive to conserve any resources that will have value to future generations" (p. 32).

"Pollution rights," however, do not seem the unmixed blessing that Holcombe imagines. No doubt he is correct that the holders of such rights will use them efficiently. But it does not follow, as Holcombe thinks, that pollution rights will lead to less pollution than regulation. This depends on the quantity of rights made available for sale.

This is a minor matter in what is on the whole a convincing book. The book is free of jargon, and the theory that he deploys can readily

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be grasped by lay readers. Holcombe does not locate the key to the mysteries of economics in the *arcana* of Gadamer, Croce, St. Anselm, or the Maharal of Prague. He instead goes about his work quietly, unpretentiously, and efficiently. His use of common-sense reasoning is a model of how applied economics ought to be done. ❖

The Right To Trespass?

IMMIGRATION AND THE AMERICAN IDENTITY: SELECTIONS FROM *CHRONICLES*, 1985–1995
The Rockford Institute, 1995, 232 pp.

The twenty-three contributors to this anthology do not share a uniform point of view. Nevertheless, a distinctive *Chronicles* approach to immigration emerges from the volume.

Many opponents of immigration ardently champion a unified national culture; but, with some exceptions, the contributors to this book do not adopt this line. Rather, as the Editor of *Chronicles*, Tom Fleming, explains: "Cultural nationalism is an unmitigated evil, and I would not hesitate and call it fascism, if it were not unfair to the Duce. . . . The best hope for American culture today resides in the local, provincial, and ethnic remnants that are struggling to survive; they would be the first victims of cultural nationalism" (pp. 22–23).

It is hardly a surprise that for *Chronicles* the culture of the South is at least *primus inter pares*; and in "The Celtic Heritage of the Old South" Grady McWhiney describes the people of this region with insight and wit. "Neither Celts nor their Southern descendants regarded their ways as unusual or reprehensible. The laziness and lack of ambition that good Englishmen and Yankees considered deplorable were viewed differently by traditional Celts and antebellum Southerners. They delighted in their livestock culture and their comfortable customs" (p. 42).

But our contributors by no means equate culture with the South. Allan Carlson sensitively evokes the German–Swedish culture found in Minnesota and Wisconsin around 1900. Whatever the region described, though, a common theme stands out. Cultures are fragile organisms, not to be tampered with haphazardly. Without careful protection from invasion and infiltration, they stand in imminent danger of destruction.

Here an objection arises. America has been host to millions of immigrants, and yet the regional cultures that attract our authors have in large part survived. Perhaps further diversity would promote

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cultural growth, rather than stunt it.

The point has been very well handled by Clyde Wilson, in his brilliant essay, "As a City Upon a Hill." He asks: "Is the success of the melting pot something that is infinitely repeatable and expansible?" Granting there are many possible answers, he offers his: "We have been extremely lucky, but there is no reason to gamble that the luck will hold forever. The economic, political, military, and moral problems we face are not like those of the past and will not be any easier to solve in a society even less stable and coherent in its values than that of today" (p. 29).

In a pure libertarian society there is no unrestricted right of free immigration. Why must libertarians support such a right in our own society?

The contributors to this book vividly portray the dangers of mass immigration. For them, the metaphor of an engulfing tide has come to life. The distinguished biologist Garrett Hardin fears that fast breeding immigrant populations will displace the cultures of their host countries. "At first, spokesmen for immigrants may demand nothing more than a tolerance of other ways of doing things, but as their numbers increase the immigrants may demand that anything that they forbid should be forbidden to all of society. . . . The fertile immigrants will put pressure on the diminishing proportion of the rich and less fertile to change *their* culture" (p. 169).

Some may contend that Hardin exaggerates the danger here. As immigrants prosper, their fertility will decrease. People reproduce most rapidly when they are poor: as they grow wealthy, the threat that Hardin conjures up will abate. As one might expect, Hardin views this counter with skepticism. "Studies of nonhuman animals consistently show that improvements in living conditions *increase* the fertility rate. Curiously, the opposite conclusion was asserted with respect to human beings early in this century" (p. 132). If Hardin is right, the suggested escape fades out and eludes us. Once more the prospect of being outbred by another culture, which Hardin does not hesitate to call genocide, demands a response.

One notable omission will not have escaped most readers. Many discussions of immigration stress economics, but I have so far said nothing about relative standards of living, jobs, economic growth, etc. As Keir Hardie famously asked in another connection, "What about the unemployed?"

Our authors by no means ignore

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the economy: their view emphasizes culture, but they are hardheaded realists as well. Donald Hubble's essay "The Cost of Immigration," discusses in detail the immense economic costs imposed by immigrants. Hubble, an economist at Rice University, estimates that "immigrants cost the American taxpayer more than *$42.5 billion* in 1992 alone" (p. 136). Hubble's calculations have aroused controversy, and I suspect that Julian Simon would provide a substantially lower estimate. I cannot even pretend to adjudicate the controversy between Hubble and his critics. But the vast sums spent on welfare for immigrants should give pause even to the most died-in-the-wool supporter of unrestricted immigration.

The vast sums spent on welfare for immigrants should give pause to the supporters of unrestricted immigration.

Many readers of *The Mises Review* will, I suspect, share with me a problem that most of the contributors to *Immigration and the American Identity* can with a clear conscience ignore. Libertarians, and other advocates of the free market, have often supported free immigration. If one thinks immigration a natural right but also finds persuasive the cultural considerations urged in this volume, what is one to do? Those who, like Tom Fleming, regard natural rights as "one with the gorgons and the harpies" can greet this predicament with a smile. But libertarians are not so fortunate.

In this connection, Hans Hoppe's "Free Immigration or Forced Integration" is vital reading. Hoppe points out that in an anarcho-capitalist society, no public property at all exists. And if all property is private, no problem of immigration, as usually constituted, requires solution. Individuals are free to invite others onto their property as they wish, and no one may enter another's property against his will.

But of course we do not live in an anarcho-capitalist society: of what relevance, then, are judgments about "what never was, on sea or land?" Contrary to first appearance, the point Hoppe makes is no idle Utopian speculation but precisely responds to the difficulty for libertarians previously raised. If, in a pure libertarian society, there is no unrestricted right of free immigration, why must libertarians support such a right in our own society? Hoppe's penetrating analysis points the way toward a revolution in libertarian thought about immigration. Those who wish to take part in such a revolution can do no better than to begin by reading this essential book. ❖

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The Culture Taboo

"BLOC BUSTERS,"
Virginia I. Postrel
Reason, Volume 27, No. 9
(February 1996), pp. 4, 6.

Virginia Postrel gets a lot of mileage from an elementary fallacy. She begins her piece, a plea for Republicans to stress the free market rather than cultural issues, in an odd way. She throws up her hands in horror over some critical articles about the Internet that appeared in a neoconservative journal whose name doesn't bear mention in polite company.

She comments: "I mention this incident . . . because it represents a disturbing trend among the conservative intelligentsia . . . a campaign, conscious or unconscious, to ostracize libertarian ideas in general—and free markets in particular—as dull and dangerous" (p. 4).

Why is it anti-libertarian to oppose the Internet? Apparently because, like the opposition to technology of Kirkpatrick Sale, skepticism about the Internet "lashes out at science, at progress, at the future, at intelligence itself" (p. 4). Has Postrel ever looked at an Internet bulletin board? No one can read more than a few pages of the drivel to be found there without coming to realize that the Internet is a very mixed blessing.

But enough of the Internet. What is the elementary fallacy that ensnares her? She rightly notes that it is poor strategy for Republicans to concentrate only on cultural issues. "If you're convinced that the *only* thing conservatives should care about is 'culture,' you'll ignore the core 'leave us alone' issues that unite the GOP coalition" (p. 7, emphasis added).

Her point is well taken; the "free market message" must never be neglected. But she goes on to criticize Phil Gramm for raising cultural issues at all. He is guilty of "craven pandering" in opposing abortion. Raising cultural issues "has muffled his natural free-market message."

Postrel disagrees with the cultural conservatives and doesn't want her libertarianism sullied with anything so base as family values.

Now we see Postrel's real agenda. She disagrees with the cultural conservatives and doesn't want her libertarianism sullied with anything so base as family values. But it just doesn't follow from "One should stress economics" that "one should not raise cultural issues." ❖

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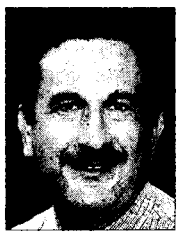

David Gordon, who writes *The Mises Review*, is a senior fellow at the Ludwig von Mises Institute. He was educated at UCLA, where he earned his PhD in intellectual history, and is the author of *Resurrecting Marx: The Analytical Marxists on Exploitation, Freedom, and Justice*; *The Philosophical Foundations of Austrian Economics*; and *Critics of Marx*. He is also co-editor of H.B. Acton's *Morals of Markets and Other Essays* and a contributor to such journals as *Analysis*, *The International Philosophic Quarterly*, *The Journal of Libertarian Studies*, and book review editor for *The Review of Austrian Economics*.

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